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MUNICIPAL NOMINATION REFORM

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Examples abound of the great loss and damage to the city through its want of sufficient legal power to guard or promote the interests of its citizens. The city government is to a marked degree a helpless government, the vassal of the state legislature. But if the city be emancipated from legislative meddling and clothed with ample legal power to meet every local need, unless responsibility for the use of the power be readily enforceable by its citizens, only a little part of the road toward honest, efficient and progressive administration of the city's affairs will have been traveled. A local government having ample power and accountable directly to the citizens of the locality for the use of the power is the democratic way of solving the municipal problem.

In the city, as in the state and nation, to attain good government, some practical and practicable method must be found through which the people subject to the powers of government may easily enforce responsibility for the use of those powers. The city government problem is but one phase of the general political problem—national, state and local, in the United States—How to achieve a government of the people and for the people, through agents and agencies selected by the people? Unless these agents and agencies are thus selected, there is no readily enforceable responsibility to the people for the exercise of governmental power; the government is not a representative democracy. The movement for a change in our methods of nomination to appointive and elective public office has gained force each year with the growing appreciation that, under present conditions, accountability for official conduct is felt toward the nominating, not the appointing or electing, power; that the power to nominate to public office is an attribute of sovereignty and ought to belong to the people; that a government responsible and respon-

sive to the governed is impossible unless the governed control in their own interest all methods of nomination to public office.

Civil Service Reform and Primary Reform are phases of this democratic movement. Civil Service Reform finds its support in the sound democratic principle that appointive public officers should owe their positions to merit and fitness, not to subserviency to some political autocrat; that they are not the liegemen of a feudal overlord, but servants of the people. Similarly, Primary Reform seeks to democratize the methods of nomination to elective public office. The people are learning that if an autocracy controls the nominations to office, it controls the conduct of the office; that a so-called popular election, where the voters are confined in their choice to candidates selected for them, not by them, is admirably adapted to assist in placing all powers of government in the control of an autocracy.

The laws passed in deference to this ever-strengthening determination to secure emancipation from autocratic rule have been almost innumerable. But the practical effect, so far as dislodging autocracy from power or weakening its domination is concerned, is altogether negligible. After more than twenty years of agitation for Primary Reform, in not a single state where a political autocracy was in the ascendancy when the agitation began, are nominations to elective public office made to-day through methods that insure a free choice by the people of the person to be nominated. The methods in use do not contemplate or provide for any such result. Let any resident of New York, for instance, recall the nominations for public office in his state during, say, the last half dozen years, and attempt to name a single person nominated by methods that afforded any test or guaranty that he was the choice of the majority or the plurality of the voters who believed in the political principles he was nominated to represent. There was no established or recognized method of nomination by which such a test could be made, yet no one will deny that this test is a peculiarly appropriate one to be applied to the nomination of candidates for elective office in a representative democracy.

Up to the present time our municipal nominating methods have, in the main, followed the same lines and applied the same principles as have been followed and applied in the case of nominations to state

office, and, naturally, with the same baneful result, save that, for obvious reasons, the result is more prompt and certain in the case of cities. The local political autocrat, familiarly known as the "Boss," is one of the commonest of phenomena. If we wish to be rid of the local boss, and to make our city governments representative democracies, we must profit by the very informing experience afforded by the abundant primary legislation enacted during the last twenty years; and in drafting a municipal nominating law must abandon the methods that are demonstrated failures, no matter how logically perfect they may be nor how persuasive or convincing are the arguments in their favor. Nor should we expend much effort in explaining the reasons for their failure; if their failure has been demonstrated, that is enough.

Now one of the lessons taught by the history of primary legislation is this: A political autocrat or a political oligarchy will inevitably, sooner or later, select the nominees to elective public office if the privilege of participating in such selection is limited to the accredited members of a regularly constituted political organization; and this result is the more certain, the more elaborate and detailed is the internal scheme of government of the organization.

This is amply demonstrated by the political history of New York before and since 1882, when the first primary law was enacted in that state. In 1882 the Democratic and Republican organizations in New York each had elaborately worked out schemes of government, admirable in their completeness, and most efficiently caring for all the details of a political campaign from its inception till the votes were actually deposited on election day. The autocratic control of these organizations was notorious. Between 1882 and 1904 the New York Legislature enacted twenty-one laws and amendments to laws upon the subject of primaries, each succeeding statute increasing and extending the legislative regulation of the internal government of political organizations. Yet the autocratic control of the organizations has persisted undiminished. In 1898 a comprehensive statute was enacted intended to take the place of all then existing primary laws affecting cities having a population of fifty thousand or more and to embody all that had been found essential or desirable in legislation on the subject of primaries. The conduct of primaries and of all other affairs of the organizations was regulated with the same attention to administrative details, and

the same minute and painstaking care that the legislature devotes to the framing of a city charter. The furthestmost limit of legislative ability was reached. That statute, with some slight amendments, is the present primary law of New York. It has been in full force for six years, yet neither the Republican nor the Democratic organization has been relieved from the evils of autocratic control. Each organization is an example of absolutism. It would seem to have been demonstrated that the statutory regulation of political organizations does not democratize their management or emancipate from autocratic control the methods of nomination to elective office.

But New York's experience is instructive in another respect. It was urged that so long as the conditions of membership in an organization were prescribed by the organization, these conditions would be made such as to exclude all who objected to autocratic rule; that it was the character of the qualifications insisted upon for admission to membership in the organization which had caused the failure, one after the other, of the successive primary laws from 1883 to 1898, in either democratizing the government of the organizations or breaking up control by the political autocrat of nomination to public elective office. Therefore, the legislature in 1898 undertook itself to prescribe the conditions of membership in a political organization. It was enacted that when a citizen registers he need only state that he is in general sympathy with a designated "party," that it is his intention to support generally at the next election, state or national, the nominees of such "party" for state and national offices; and that he has "not enrolled with or participated in any primary election or convention of any other party since the first day of last year." "Party" is defined by the statute as "a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor." Any voter who made this statement became at once an accredited member of the designated organization, and entitled to receive notice of and participate in its primaries during the succeeding calendar year. Much good was confidently expected from the innovation that the legislature, not the organization, prescribed the qualifications of membership in the organization. But the Republican and Democratic organizations in New York continue to be ruled by autocrats as before, and autocrats still dictate the nominations to elective public office.

Legislative ingenuity in prescribing the qualifications of membership in organizations, and in regulating the methods and supervising the affairs of organizations, has been powerless to accomplish government of, for and by the people. After, as before, the enactment of "primary laws," nominations to public office are an appanage of the political autocrat who dominates the organization. This condition will be inevitable so long as organizations hold the monopoly of making nominations to public office. And organizations will have this monopoly so long as political organization is by statute or custom made synonymous and identical with political party. In New York, for instance, there can be under the law no political party that is not a political organization. Polling so many as ten thousand votes for governor creates *ipso facto* an organization entitled to a special name as a political party, and to the exclusive right of making thereafter the party's nominations to public office. The provisions of the statute take especial pains to insure that among competing claimants, but one organization shall be legally recognized as entitled to be the party, wear the party name and make the party's nominations.

That, as a matter of fact, the "organization" is not the "party" is notorious; and the effect of a statutory treatment of two things in every essential respect so distinct and different as if they were interchangeable and identical has merely served to emphasize that any plan which in its practical operation vests an organization with the monopoly of making the party's nominations to public office necessarily tends to subject the party to the organization, and, as a matter of course, to the personal rule of the organization's autocrat. Abundant political experience should have made this well known before ever any "primary law" was enacted; but whatever may have been the state of our knowledge then, there should be no hesitation now in definitely abandoning the futile policy of which the series of "primary laws" enacted in New York is a conspicuous example.

It is especially important to keep in mind and to apply this lesson of political experience, if we may reasonably hope to accomplish any substantial change for the better in present methods of making nominations to elective municipal office; for, in addition to the evils already pointed out, the continuance of the old policy will subordinate the local interests to national political issues. Although,

at least for some time to come, it is to be expected that, in order to further the interests of the national political organizations, their local branches will make nominations and conduct campaigns to gain possession of municipal offices, there is no division of opinion among municipal reformers that questions of national political policy are outside the field of legitimate municipal politics. Any law or custom, therefore, that in the matter of nominations to municipal office tends to give a monopoly, or even a preponderating influence, to local branches of national political organizations must make against the public interest of the municipality. And every "primary law" that in its practical operation grants to political organizations, as such, a monopoly of making nominations to public office will, if applied to the municipal field, inevitably tend, under present political conditions, to subordinate the municipal interests to the exigencies of national politics. If only the accredited nominees of political organizations may fill municipal elective office, the sure results are, first, a local political autocrat who controls the nominations, and, second, the submerging of questions of local policy in the fierce strife of national politics. A flagrant example of such a law is the present New York statute, which provides a cumbrous, expensive, tedious and complicated method of making nominations to *municipal* office, unless such nominations are made by an organization that cast at least ten thousand ballots for *governor* at the last preceding gubernatorial election.

There are, then, at least two sound reasons why a municipal nominating law should ignore political organizations, as such, and grant neither to them nor to their nominees any special privilege upon the official ballot which the state compels every voter to use at a general election. The test whether one may have his name printed as a candidate for public office upon the general municipal ballot must *not* be that he is the accredited nominee of an organization. So much at least has been proved by countless experiments extending through many years.

There is another reason why permanent political organizations should not have by law either a monopoly or a preponderant advantage in making nominations to municipal office. Every observer of municipal affairs knows that the issues of municipal politics are constantly changing, and the rise and fall of local political organizations and local political parties are matters of common knowledge.

Municipal voters are increasingly loath to bind themselves to any political organization which interferes with individual freedom of political action or hinders the ready change of the voter's political support from year to year, as the needs of the city raise new political issues.

Partisanship in local politics is wholesome and necessary, but the lines of cleavage in local politics are constantly shifting. The questions at issue in 1900 are likely to be very subordinate or altogether non-existent in 1904. The men who gladly work side by side as vigorous partisans in a common cause this year are likely to be vigorous partisans on opposing sides next year. Political parties and political partisanship are essential, but municipal parties are in a constant state of flux, and rightly so. And *permanent* organizations which tend to prevent this free interplay of political forces or to hinder the disappearance of old parties, and the prompt evolution of new ones to meet the local issues as they arise, are a menace to the public interests of the municipality. Each municipal campaign should give the freest and fairest opportunity for the development of new local political parties.

The experience of New York has been recited at some length because it is typical of the experience in many other states. The fundamental characteristic common to all the primary laws thus far enacted has been that only candidates of organizations may be nominated to elective public office, and only accredited members of an organization may participate in making the nomination. In some states the organizations are expressly authorized by statute to prescribe the credentials to membership. In others, one becomes an accredited member by publicly announcing to the state election officers supervising the primary that he wishes a ballot containing only the names of candidates wearing a particular organization label. Under a very recently enacted law, similar in this respect to the original Hennepin County (Minnesota) law, one accredits himself by merely voting a ballot containing only such names. If he should vote for candidates wearing different organization labels, though, for example, one might be a candidate for the mayoralty nomination and another for the nomination for governor, all his votes would be thrown out. Under existing primary legislation, who

shall be chosen as nominee for public office to represent the political policy favored by a recognized political organization is strictly a question for the organization to determine, and is committed to the exclusive charge of the accredited members of the organization. The permission, which has been sometimes granted, to make nominations by petition is only an apparent not a real exception to the rigid enforcement of this organization test; for the exercise of the privilege of nominating by petition, even when not made most difficult and expensive, is denied to any one unwilling to forego his allegiance to the political principles avowed by a recognized political organization. Such an one must join the organization, or he is forbidden to take any part in nominating to public office a representative of those principles.

The futility of the organization test to prevent the growth of political autocrats, or restrain their power when once established, has been demonstrated again and again. For at least half a century it has been put to the proof by every extra-legal and legal method that human ingenuity could devise, and always with the same pernicious results. The organization test breeds bosses. It uses the forms of democracy to strike democracy down. The actual government it creates is a pure autocracy. The tenure of a political autocrat may be long and continuous, or it may be interrupted. But whether his reign be long or brief, interrupted or continuous, the "organization test" always supplies another autocrat to take his place and perform his functions. No matter how often the autocrat changes, the autocracy persists. If we really wish democratic government, we must deprive organizations of their nominating monopoly. A political organization must no longer have the exclusive right to nominate to public office representatives of its political principles. We must abandon the organization test and substitute some other test in its place.

What, then, should be the test? The previously ascertained fact that the candidate has a stronger popular support as a nominee for the office than any competitor for the nomination publicly avowing his allegiance to the same set of political principles. This would substitute for the narrow "organization support" test the "popular support" test that is actually applied at every general election.

Every vote for a Republican candidate for public office is rightly counted as a Republican vote. The Republican party strength is not measured by the organization vote that nominated him. If none but organization members were allowed to cast their votes at general elections, the figures of the returns would be astonishingly diminished. It is actual voting that determines a man's present membership in a party. The fact that I voted for Democratic candidates last year, or that I intend to vote for Democratic candidates next year, does not make me less a member of the Republican party this year when I vote for its candidates. It is the present vote that I cast which determines whether I belong to a party, not my intention to vote in the future, nor the historical fact that I did vote in a particular way at some time in the past. The definition of "party" which makes its membership comprise *all* citizens who vote for the avowed representatives of a given set of political principles is the actual test by which party strength is measured at every general election, and why should it not also be the test for determining who shall participate in selecting a representative of those principles as a candidate for public office? If we will but conceive of a general election as what it ought to be, and endeavor to make it a contest between the representatives of different political policies competing to be put into practical effect in the conduct of public affairs; and if we will but conceive of the preliminary election of the representatives of those policies as what it ought to be, and endeavor to make it a competitive contest for the right as a candidate for office to represent not an organization, but a given political policy, there will be no difficulty in applying to both elections the same standard as to who may rightfully participate in determining the choice. Each is a genuine election held in the public interest: the preliminary (nominating) election, to decide who has the greater popular support as the avowed representative of a given political policy; the ensuing general election, to decide which of different political policies competing for control of the government has the greater popular support. The true test in each case is the measure of "popular support," not "organization support." In any event, sufficient and conclusive reasons for the substitution of "the popular support test" are found in the proved evil consequences of the "organization support test." The "organization test," under any of its many forms in the primary legislation hitherto enacted, always

has, as an essential element, that the organization members, and only the organization members, are allowed to participate in nominating for public office representatives of the announced political principles of the organization, and that all who support those principles shall be forced to vote for the organization nominees at the general election. This has been proved by experience to result, *first*, in the domination of the party by the organization; *secondly*, in the domination of the organization by an autocracy. And so is evolved the hierarchy of political boss-ship, with a supreme autocrat, the party boss, at the top. On the other hand, if the "popular support test" be applied alike to the nominating and the final election, the organization's choice is but one of the competitors for the position of representative of a given set of political principles, since all believers in those principles may freely participate in choosing representatives of them as candidates for public elective office, and the successful competitor will be, as he should be, the one polling the largest popular vote. He may or he may not be the candidate favored by the organization as such. But, in any event, he certainly will be the candidate favored by the greater number of voters, who desire him to be nominated for public office as the representative of the principles in which they believe; for every such voter will have had full opportunity to vote for or against his candidacy. Why should not a candidate thus chosen be held to have fairly won the right to be his party's candidate?

The justice and the propriety in municipal nominating elections of applying the popular support rather than the organization test, are enforced by the notoriously great discrepancy between the numerical strength of organizations and the actual vote cast at the final election, when the citizens are called upon to decide what policy shall be followed in the administration of the local public affairs. It happens again and again in municipal elections that the candidates favored by an organization of confessedly insignificant numerical membership, nevertheless, on account of their personal characters and the political policy of which they are exponents, secure a large popular support, and that at a subsequent election the very same candidates as representatives of the same policy and favored by a greatly strengthened organization secure a much less popular fol-

lowing. This characteristic tendency in municipal politics, as we have already pointed out, is as wholesome as it is natural and inevitable. It is to the local public interest that this tendency should be encouraged and given full play, rather than checked or repressed by any "organization test."

The proved evils resulting from the operation of the organization test would be a sufficient reason for its abandonment even if it would destroy or seriously injure political organizations. But the adoption of the "popular support" in place of the "organization" test will not decrease the usefulness of political organizations or diminish in a single respect their legitimate authority and influence. There will be as much need of political organizations then as there is now, and they will find ample opportunity for their activities; but the primary reason for their existence will then be to secure the largest popular support for the political principles they advocate, not to find candidates who will be subservient in public office to the will of the organization.

He, who holds that a candidate for public municipal office should be the choice of the majority or plurality of the voters who believe in the political principles he is nominated to represent, will not look to the legislative regulation and supervision of the internal affairs of political organizations as a means of accomplishing the result sought. Long, varied and abundant experience with this method has proved it a failure. And experience and investigation will have taught him that the application of the "organization test" is not only futile as a means of accomplishing this result, but that it is a positive force for evil, since it tends (1) to create a political autocracy; (2) to subordinate the local public interest to the issues of national politics; (3) to hinder and to suppress the free interplay of local political forces, the rise of timely local political parties and their prompt disappearance with the occasion for their existence.

Frankly abandoning, therefore, the lines that have led to disappointment and failure, he will set about finding some method through which a candidate for the nomination to elective municipal office may seek the support of *all* who will vote for him as the avowed representative of a definite set of political principles. He will do this, not alone because the lines hitherto pursued have been

proved failures and worked positive injury to the public interest—though that were certainly reason enough—but because he will recognize that primaries to select nominees to public office are public matters, not organization matters; public elections, not private elections; that the public purpose of such an election is to select a representative of a political policy, not of a political club or organization; and that it is a perversion of the very purpose for which a general election to public office is held that candidates for such offices should receive recognition upon the official ballot as representatives of political organizations, rather than as representatives of political policies. It would seem self-evident, as a matter of logic, that when the state permits upon the official ballot at a general municipal election as a candidate for an office the name of but one person as the representative of a given political policy, it should be the name of the man who, as an avowed adherent of the policy, has proved by the actual votes cast in his favor in an open and fair contest that he has a larger popular following than any competitor. But this is not more a matter of sound logic than of sound public policy. For the prime purpose of elections to public office is to determine what political policy shall control the government, not what organizations shall place their candidates in office. This argument of sound public policy is enforced by the demonstrated grave public injuries when political organizations, as such, receive from the state exclusive privileges or preponderant advantages in putting the names of their nominees upon the official ballot.

The framer of a municipal nominating law who holds that a candidate for elective municipal office should be the choice of the greater number of voters who believe in the political principles he claims to represent will, therefore, not confine to accredited members of any organization the right to participate in the election that nominates a candidate to represent a given set of political principles; but, for every variety of definition of membership in an organization, as a test of the right to vote for the representatives of those principles, he will substitute precisely the same test that is applied at every general election to ascertain whether a given set of political principles shall control in the conduct of public affairs. In other words, he will make the nominating election a public election to determine who shall have the right as the representative of a given set of political principles to be a candidate for public office. He will recog-

nize that to be chosen as the exclusive representative of a given set of political principles is really to hold an elective public office, and that the public interests require the same credentials as are demanded from the holder of any other elective public office; that a "primary" to select candidates for *public* office is not an organization matter to be governed by the rules that regulate a primary to elect one of its members to an *organization* office; that the latter is a *private* election, while the former is a *public* election, having no necessary or proper connection with primaries to elect the officers or transact any of the business of the organization.

In the municipal nominating law that he would draft the right of any one to have his name as a candidate for public elective office on the official election-day ballot would depend:

1. Upon the fact that the political policy he represents has secured a sufficient popular support to entitle it to contest with competing policies to control the conduct of the government;

2. Upon the fact that among those competing with him for the right to represent this policy as a candidate for public office, he has secured a stronger popular support than any of his competitors.

This would, as it should, make the considerable popular support of a given public policy a condition of such policy having a representative in the final election-day contest; and it would also, as it should, grant the right of representing such policy to the man who had demonstrated that he could poll the heaviest vote as its avowed adherent.

If one asks how these two conditions may be fulfilled, the answer is easy: Prior to registration day, let every candidate for nomination be announced as such candidate, together with a statement of the platform of political principles upon which he stands, each distinct set of principles being denoted by a short title or phrase; let the names of all candidates for the nomination be printed upon an official ballot by the state; upon a registration day and immediately after registering, let the registration officer deliver to the voter an official ballot, which the voter shall mark for the candidate he favors and deposit in the ballot box under exactly the same circumstances as at the general election; and let the votes be canvassed and the result announced, as at the general election; on the official ballot used at the ensuing general election let only such policies and candidates appear as have successfully passed the two tests set forth above,—except that representatives of *other* and *dif-*

ferent policies than those voted upon at the preliminary election may find a place upon the general election ballot by means of a properly authenticated petition. This would sufficiently meet the rare occasions when some new question of public policy might arouse public attention between the nominating and the general election.

This is not the place to set forth the provisions of such a law in detail, but that it is entirely feasible has been demonstrated by a committee of the National Municipal League, which has successfully drafted a bill based upon the election laws of New York that, if enacted into law, would embody the principles here advocated, and not in any respect disturb the elaborate and technical electoral machinery already established in that state.

The opportunity to discover, before a political policy receives representation upon the official ballot at the general election, that it has a substantial popular support, would accomplish a much needed reform without in any way preventing or checking the freedom of popular action in regard to questions of public policy—a freedom most essential in a representative democracy—and at the same time it would recognize that the representative of a political policy that can find only a relatively trifling support at the polls should not cumber the official ballot at a general election. There are abundant reasons why there should be a fair opportunity for testing just how far a given set of political principles may win popular support; but is there any sound reason why an electoral system, if really devised solely in the interest of the public should provide that this test should be made as to *all* sets of political principles at the supreme moment when the people are called upon to decide according to which of differing sets of political views the government shall be actually conducted? Is it not an ill-devised and inferior electoral system which compels a delay till this supreme moment to ascertain that a given political policy is, for the practical purpose of government of only minor, often a very minor, importance, if not, indeed, a purely academic question? Yet this is precisely what the present method fosters and promotes. Would it not be far more in the public interest to find out well in advance of the general election which political views are of inferior importance and which are the real competitors for adoption by the people and realization in the conduct of public affairs?

Under present methods the general elections, instead of being

confined, as they should be, to determining which of great competing general public policies should control, are made the arena in which are displayed all sorts of political vagaries and notions, often to the confusion of the really important issues and always to the public injury. There should be nothing savoring of the academic in a general election to public office. What political policy shall control in the conduct of public affairs until the next election is the momentous question to be decided at a general election. Long before then there should have been ample opportunity for discovery that the amount of popular support for any given set of political views is, as yet, too slight to justify its serious consideration in determining this question.

Under the practical operation of the electoral system we have briefly outlined, the general municipal election would be a *real* contest between opposing political policies for control of the local government, and in the case of each of those policies the public office of representing it would have been filled at a preliminary (nominating) election, in which a full and fair opportunity would have been offered every believer in the policy to vote for the representative he preferred; political organizations would be undisturbed, save that they would be deprived of the monopoly of ownership of the political views which others hold in common with them, and thereby imposing the acceptance of the organization's choice of a representative of those views. The regulation of their internal affairs and scheme of government would become unnecessary, for their nominations to public office would become mere recommendations of their own preference to the popular consideration, instead of decrees from which there is no appeal. Shorn of its monopolistic control of naming successful candidates for public office as the official representative of the political policy supported by it, the organization would become wholesome in its activity and liberal in its management. Local political parties would become valuable and effective agencies for conducting the local government. Autocracy would disappear. The citizens of the town would govern the town. The administration of the local public affairs would be at once the expression and the realization of local public policy, authentically ascertained and authoritatively declared. The present absolutism, scarcely disguised under the forms of popular government, would give place to a genuine democracy.